

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:)	Case No: 1E-2010-211137
)	
)	
IKE FERDINAND UDENGWU)	
)	
For a Physician Assistant)	
License)	
)	
Applicant.)	
_____)	

DECISION AND ORDER

The attached Stipulation for a Probationary License is hereby amended, pursuant to Government Code Section 11517 (c)(2)(C) to correct technical or minor changes that does not affect the factual or legal basis of the stipulation. The Stipulation for a Probationary License is amended as follows:


1. Page 1, the Case No. is corrected to read: "1E-2010-211137."

The Stipulation for a Probationary License as amended is hereby accepted and adopted as the Decision and Order by the Physician Assistant Committee of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 5, 2011, and the license will only be issued and probation to commence upon completion of any remaining requirements for licensure.

ORDERED July 5, 2011

PHYSICIAN ASSISTANT COMMITTEE



Steven Klompus, P.A., Chairperson

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Licensure by:

IKE FERDINAND UDENGWU,

Petitioner.

Case No. 1E-2007-182017

OAH No. 2011041046

DECISION

This matter was heard before a quorum of the Physician Assistant Committee of the Medical Board of California, on May 19, 2011, in Sacramento, California. Committee members present included Steve Klompus, P.A., Chair, Rosslynn Byous, P.A., Ph.D, Cristina Gomez-Vidal Diaz, Reginald Low, M.D., Robert Sachs, P.A., Shaquawn D. Schasa, Steven Stumph, Ph.D., and Sheila Young. Jonathan Lew, Administrative Law Judge, Office of Administrative Hearings, presided.

Jessica M. Amgwerd, Deputy Attorney General, appeared on behalf of complainant Elberta Portman, Executive Director, Physicians Assistant Examining Committee.

R.M. Anthony Cosio, Attorney at Law, appeared on behalf of Ike Ferdinand Udengwu, who was also present.

The case was submitted for decision on May 19, 2011.

FACTUAL FINDINGS

1. The hearing in this matter was based on a Petition for Penalty Relief for License Denial dated May 19, 2011. Ike Ferdinand Udengwu (petitioner) has never been licensed by the Committee. The Committee considered the petition as an application for licensure.

2. On August 2, 2006, petitioner signed a "Stipulated Settlement and Order Denying Physician Assistant License." Pursuant to the Stipulated Settlement, petitioner admitted all factual allegations contained in the May 17, 2006 Statement of Issues, and agreed that there was sufficient cause to deny his application for licensure.

The facts and circumstances underlying the Stipulated Settlement and Order occurred in April 2004, when petitioner was employed as a physician assistant at a medical facility located in Glendale, California. In fact, petitioner was not licensed, and has never been licensed, as a physician assistant. This was a violation of California Code of Regulations, title 16, section 1399.521, subdivisions (a) and (d). Further, petitioner engaged in the unlicensed practice of medicine by treating patients when there was no licensed physician at the medical facility, in violation of Business and Professions Code section 2054. Petitioner also admitted that he provided false factual information in his application for licensure by answering “no” to the question: “Have you ever applied for a California physician assistant license?” In fact, petitioner had previously applied for a physician assistant license in November 2002.

The Committee adopted the Stipulated Settlement, which became effective October 23, 2006.

3. On April 1, 2007, petitioner filed a Petition for Reinstatement of Revoked License.¹ The matter was heard before a quorum of the Committee on February 6, 2008. The Committee denied the Petition, expressing concerns at that time about petitioner’s ability to safely practice as a physician assistant, and noting that such concerns might be addressed by completion of an accredited educational program. He was encouraged to continue his efforts at rehabilitation. The Decision became effective April 4, 2008.

4. Since April 4, 2008, petitioner has completed 208.5 hours of continuing medical educational (CME) classes. Classes were viewed via the internet or by live lecture. The CME courses were taken from a variety of different providers covering a multitude of medical subjects. Petitioner noted in his narrative statement:

I have been attending CME’s with Practicing Clinical Exchange, Best Practice in Pediatrics, Veritas Institute for Medical Education, Inc., AHC Media LLC, Center for Bio-Medical Communication, Inc., Medical Education Resources, Inc., CME2, Inc., Professional Postgraduate Services and free CME.

¹ The Stipulated Settlement and Order referenced in Factual Finding 2 sets forth in paragraph 17 in pertinent part, “Respondent understands and agrees that he may not reapply for licensure or petition for reinstatement for at least one (1) year from the date of the original denial of his license by the Committee on January 6, 2006. Respondent further understands and agrees that if he ever applies for licensure or petitions for reinstatement in the State of California, the Committee shall treat it as a petition for reinstatement.” (Underlining added). The Committee recognizes the error in this underlined language since the Committee cannot reinstate a license that has never existed. Therefore, the Committee considered petitioner’s request for licensure as an application under Business and Professions Code sections 3519 and 3527, and California Code of Regulations, title 16, sections 1399.521 and 1399.526.

Petitioner also reads magazines including the International Health News, Medscape, Placebo Journal, Arthritis Today and Clinical Journal of the American Academy of Physician Assistant.

5. Petitioner has provided volunteer services since 2008 with Tyron C. Reece, M.D., a general practitioner in family medicine. Dr. Reece noted that petitioner volunteered in his office one to two times per week for eight months. He assisted with front office and preparations of patients, and on occasion was present in rooms with patients' permission during clinical assessments. Dr. Reece described petitioner as a "very bright and intelligent individual who is well prepared for to [sic] assist in patient care." He is confident in petitioner's skills as a clinician and is open to employing petitioner.

6. Petitioner also submitted a letter from Eric Tate, M.D. Dr. Tate practices internal medicine and was the primary physician of petitioner's father. He knows petitioner from visits when petitioner accompanied his father to Dr. Tate's office. Based upon discussions he had with petitioner relating to his father's medical condition, Dr. Tate believes petitioner "has considerable medical knowledge" and "impresses me as having the medical knowledge enabling him to effectively evaluate and treat patients." Dr. Tate recommended to petitioner means by which he might stay current in his medical knowledge, including recommended reading and continuing medical education. He opined that petitioner's "clinical knowledge and positive attitude provide the basis for him to be an excellent practitioner and will make him an asset to any medical practice."

7. Petitioner has expressed remorse for past misconduct and avers that he has learned from his mistake and is eager to return to the medical profession if given the opportunity. Nearly seven years have passed since he committed the acts complained of in the Statement of Issues. There is no evidence that he has committed any crime or engaged in misconduct over this period. He has paid the \$1,200 fine associated with the violation of Business and Professions Code sections 2052 and 2053. Petitioner presently works at Veritas Institute for Medical Counseling, Inc. He answers phones, keeps the office open and reads medical journals at work. He believes that aspects of his work and rehabilitation there "will protect against the reoccurrence of my prior conduct."

8. Complainant has expressed concerns over the lapse of time since petitioner passed the Physician Assistant Examination on July 26, 2005. Complainant recommends that he participate in an assessment program such as the one offered by the University of California, San Diego, Physician Assessment and Clinical Education (PACE) program. The Committee agrees with this recommendation. In addition petitioner should be recertified by taking and passing the Physician Assistant National Certifying Examination. The Committee also believes he would benefit from taking an ethics course, as approved by the Committee, on physician assistant roles and responsibilities.

LEGAL CONCLUSIONS

1. Petitioner has the burden to prove that he is eligible for licensure as a physician assistant.
2. Cause exists to deny petitioner's application for a physician assistant license pursuant to Business and Professions Code sections 480 and 3527, and California Code of Regulations, title 16, sections 1399.521 and 1399.526, for violations of the Medical Practice Act as set forth in Factual Finding 2.
3. The matters set forth in Factual Findings 4 through 8 have been considered. Petitioner has presented evidence of rehabilitation and has addressed the specific concerns detailed in the Committee's April 4, 2008 Decision. Sufficient time has now elapsed since petitioner engaged in the misconduct set forth in Factual Finding 2. At the hearing, petitioner submitted certificates of completion of certain courses comprising 208.5 hours of continuing medical education classes. Although the Committee continues to have concerns regarding petitioner's ability to safely practice as a physician assistant, it believes these are best addressed by placing petitioner on probation on terms and conditions, including that petitioner participate in and pass an appropriate PACE program, take and pass the Physician Assistant National Certifying Examination, and enroll in and pass an approved ethics course relating to roles and responsibilities of physician assistants.
4. The Committee is satisfied that petitioner's continued efforts at rehabilitation now warrant granting his application for licensure, but only on a probationary basis.

ORDER

The application of Ike Ferdinand Udengwu for licensure as a physician assistant is granted, and then revoked. However, the revocation is stayed and petitioner is placed on probation for three years subject to the following terms and conditions:

1. *Clinical Training Program*

Within 60 days of the effective date of this decision, petitioner shall submit to the Committee or its designee for prior approval, a clinical training or educational program such as the Physician Assessment and Clinical Education Program (PACE) offered by the University of California – San Diego School of Medicine or equivalent program as approved by the Committee or its designee. The exact number of hours and specific content of the program shall be determined by the committee or its designee.

Petitioner shall pay the cost of the program.

If the program makes recommendations for the scope and length of any additional educational or clinical training, treatment for any medical or psychological condition, or anything else affecting petitioner's practice as a physician assistant, respondent shall comply with the program recommendations and pay all associated costs.

Petitioner shall successfully complete the program not later than six months after petitioner's initial enrollment. The program determines whether or not petitioner successfully completes the program.

If petitioner fails to complete the program within the designated time period, petitioner shall cease practicing as a physician assistant immediately after being notified by the committee or its designee.

Petitioner shall not practice as a physician assistant until petitioner has successfully completed the program and has been so notified by the Committee or its designee in writing, except that petitioner may practice only in the program.

2. *Ethics Course*

Within 60 days of the effective date of this decision, petitioner shall submit to the Committee or its designee for its prior approval a course in ethics. The course shall be limited to classroom, conference, or seminar settings. Petitioner shall successfully complete the course within the first year of probation.

Petitioner shall pay the cost of the course.

Petitioner shall submit a certification of successful completion to the Committee or its designee within 15 days after completing the course.

3. *Physician Assistant National Certification Examination*

Petitioner shall not practice as a physician assistant until petitioner has successfully been recertified under the Physician Assistant National Certification Examination.

4. *Approval of Supervising Physician*

Within 30 days of the effective date of this decision, petitioner shall submit to the Committee or its designee for its prior approval the name and license number of the supervising physician and a practice plan detailing the nature and frequency of supervision to be provided. Petitioner shall not practice until the supervising physician and practice plan are approved by the Committee or its designee.

Petitioner shall have the supervising physician submit quarterly reports to the Committee or its designee.

If the supervising physician resigns or is no longer available, petitioner shall, within 15 days, submit the name and license number of a new supervising physician for approval.

5. *Notification of Employer and Supervising Physician*

Petitioner shall notify his current and any subsequent employer and supervising physician(s) of the discipline and provide a copy of the statement of issues, decision, and order to each employer and supervising physician(s) during his period of probation, at onset of that employment. Petitioner shall ensure that each employer informs the Committee or its designee, in writing within 30 days, verifying that the employer and supervising physician(s) have received a copy of the Statement of Issues, Decision, and Order.

6. *Obey All Laws*

Petitioner shall obey all federal, state, and local laws, and all rules governing the practice of medicine as a physician assistant in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

7. *Quarterly Reports*

Petitioner shall submit quarterly declarations under penalty of perjury on forms provided by the Committee or its designee, stating whether there has been compliance with all the conditions of probation.

8. *Other Probation Requirements*

Petitioner shall comply with the Committee's probation unit. Petitioner shall, at all times, keep the Committee and probation unit informed of petitioner's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Committee and probation unit. Under no circumstances shall a post office box serve as an address of record, except as allowed by California Code of Regulations 1399.523.

Petitioner shall appear in person for an initial probation interview with Committee or its designee within 90 days of the decision. Petitioner shall attend the initial interview at a time and place determined by the Committee or its designee.

Petitioner shall, at all times, maintain a current and renewed physician assistant license.

Petitioner shall also immediately inform probation unit, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

9. *Interview with Medical Consultant*

Petitioner shall appear in person for interviews with the Committee's medical or expert physician assistant consultant upon request at various intervals and with reasonable notice.

10. *Tolling for Out-of-State Practice or Residence*

The period of probation shall not run during the time petitioner is residing or practicing outside the jurisdiction of California. If, during probation, petitioner moves out of the jurisdiction of California to reside or practice elsewhere, including federal facilities, petitioner is required to immediately notify the Committee in writing of the date of departure, and the date of return, if any.

Petitioner's license shall be automatically canceled if petitioner's period of temporary or permanent residence or practice outside California totals two years. Petitioner's license shall not be canceled as long as petitioner is residing and practicing as a physician assistant in another state of the United States and is on active probation with the physician assistant licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

11. *Failure to Practice as a Physician Assistant – California Resident*

In the event petitioner resides in California and for any reason petitioner stops practicing as a physician assistant in California, petitioner shall notify the Committee or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve petitioner of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which petitioner is not practicing as a physician assistant.

All time spent in a clinical training program that has been approved by the Committee or its designee, shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Committee ordered suspension or in compliance with any other condition or probation, shall not be considered a period of non-practice.

Petitioner's license shall be automatically canceled if, for a total of two years, petitioner resides in California and fails to practice as a physician assistant.

12. *Unannounced Clinical Site Visit*

The Committee or its designee may make unannounced clinical site visits at any time to ensure that petitioner is complying with all terms and conditions of probation.

13. *Condition Fulfillment*

A course, evaluation, or treatment completed after the acts that gave rise to the charges in the accusation but prior to the effective date of the decision may, in the sole discretion of the Committee or its designee, be accepted towards the fulfillment of the condition.

14. *Completion of Probation*

Petitioner shall comply with all financial obligations (e.g., probation monitoring costs) no later than 60 calendar days prior to the completion of probation. Upon successful completion of probation, petitioner's license will be fully restored.

15. *Violation of Probation*

If petitioner violates probation in any respect, the Committee after giving petitioner notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against petitioner during probation, the committee shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

16. *Probation Monitoring Costs*

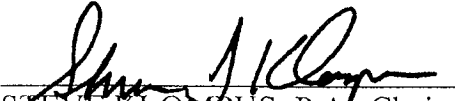
Petitioner shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Committee, which may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant Committee and delivered to the Committee no later than January 31 of each calendar year.

17. *Voluntary License Surrender*

Following the effective date of this probation, if petitioner ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, petitioner may request the voluntarily surrender of petitioner's license to the Committee. The Committee reserves the right to evaluate petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, petitioner shall within 15 days deliver petitioner's wallet and wall certificate to the Committee or its designee and shall no longer practice as a physician assistant. Petitioner will no longer be subject to the terms and conditions of

probation and the surrender of petitioner's license shall be deemed disciplinary action. If petitioner re-applies for a physician assistant license, the application shall be treated as a petition for reinstatement of a revoked license.

DATED: July 5, 2011


STEVE KLOMPUS, P.A., Chair
Physician Assistant Committee
Medical Board of California